

**§ 53.143 Special rules relating to further manufacture.**

(a) *Purchasing manufacturer to be treated as the manufacturer.* For purposes of Chapter 32 of the Code, a manufacturer or producer to whom an article is sold or resold tax free under section 4221(a)(1) of the Code for use by it in further manufacture shall be treated as the manufacturer or producer of such article. If a manufacturer who purchases an article tax free for further manufacture does not use the article for further manufacture, the sale of the article by it, or its use of the article other than in further manufacture, shall, for purposes of the taxes imposed by chapter 32 of the Code, be treated as a sale or use of the article by the manufacturer thereof. See paragraphs (b) and (c) of this section for determination of taxable sale price where an article purchased tax free for further manufacture is resold, or used other than in further manufacture.

(b) *Computation of tax.* Except as provided in paragraph (c) of this section, the tax liability referred to in paragraph (a) of this section shall be based on the price for which the article was sold by the purchasing manufacturer, or, where the manufacturer uses the article for a purpose other than that for which it was purchased, the tax shall be based on the price at which such or similar articles are sold, in the ordinary course of trade, by manufacturers, producers, or importers thereof. See section 4218(e) of the Code and § 53.115.

(c) *Election.* (1) Instead of computing the tax as described under paragraph (b) of this section, the purchasing manufacturer who has incurred liability for tax on its sale or use of an article as provided by paragraph (a) of this section may compute the tax incurred under chapter 32 of the Code by using as the tax base either the price for which the article was sold to it by the first purchaser, if any, or the price for which such article was sold by the actual manufacturer, producer, or importer of such article. The purchasing manufacturer must have in its possession information upon which to substantiate such basis for tax. For purposes of this paragraph, the price for which the article was sold by the ac-

tual manufacturer or by the first purchaser shall be determined as provided in section 4216 of the Code and §§ 53.91–53.102. However, such price shall not be adjusted for any discount, rebate, allowance, return, or repossession of a container or covering, or otherwise.

(2) The election under this paragraph shall be in the form of a statement attached to the return reporting the tax applicable to the sale or use of the article which gave rise to such tax liability. Such election, once made, may not be revoked.

**Subpart L—Refunds and Other Administrative Provisions of Special Application to Manufacturers Taxes**

**§ 53.151 Returns.**

(a) *In general.* (1) Liability for tax imposed under chapter 32 of the Code shall be reported on TTB Form 5300.26, Federal Firearms and Ammunition Excise Tax Return. Except as provided in paragraphs (a)(2) and (b) of this section, a return on Form 5300.26 shall be filed for a period of one calendar quarter.

(2) *Return periods after September 30, 1992.* For return periods after September 30, 1992, every person required to make a return on TTB Form 5300.26 who does not incur any firearms and ammunition excise tax liability in a given calendar quarter shall not be required to file a return on TTB Form 5300.26 for that calendar quarter. Except as provided in paragraph (a)(5) of this section, every person required to make a return on TTB Form 5300.26 who does not incur any firearms and ammunition excise tax liability for the entire calendar year and who has not filed a final return in accordance with § 53.152 shall file an annual return on TTB Form 5300.26.

(3) *Return periods prior to October 1, 1992.* For return periods prior to October 1, 1992, every person required to make a return on TTB Form 5300.26 shall make a return for each calendar quarter (whether or not liability was incurred for any tax reportable on the return for the return period) until the person has filed a final return in accordance with § 53.152.

(4) *Forms, etc.* Each return required under the regulations in this part, together with any prescribed copies, records, or supporting data, shall be completed in accordance with the applicable forms, instructions, and regulations.

(5) *Special rule for one-time or occasional filings for return periods on or after July 1, 1995.* One-time or occasional filers are not required to file quarterly or annual returns pursuant to paragraph (a)(2) of this section if the person reporting tax does not engage in any activity with respect to which tax is reportable on the return in the course of a trade or business. Such persons shall file and pay tax for periods only when liability is incurred. See § 53.159(b)(2), providing that a deposit of taxes is not required for a one-time or occasional filing.

(b) *Monthly and semimonthly returns—*

(1) *Requirement.* If the appropriate TTB officer determines that any taxpayer who is required to deposit taxes under the provision of §§ 53.157 or 53.159 has failed to make deposits of those taxes, the taxpayer shall be required, if so notified in writing by the appropriate TTB officer, to file a monthly or semimonthly return on TTB Form 5300.26. Every person so notified by the appropriate TTB officer shall file a return for the calendar month or semimonthly period in which the notice is received and for each calendar month or semimonthly period thereafter until the person has filed a final return in accordance with § 53.152 or is required to file returns on the basis of a different return period pursuant to notification as provided in paragraph (b)(2) of this section.

(2) *Change of requirement.* The appropriate TTB officer may require the taxpayer, by notice in writing, to file a quarterly or monthly return, if the taxpayer has been filing returns for a semimonthly period, or may require the taxpayer to file a quarterly or semimonthly return, if the taxpayer has been filing monthly returns.

(3) *Return for period change takes effect.* (i) If a taxpayer who has been filing quarterly returns receives notice to file a monthly or semimonthly return, or a taxpayer who has been filing monthly returns receives notice to file

a semimonthly return, the first return required pursuant to the notice shall be filed for the month or semimonthly period in which the notice is received and all months or semimonthly periods which are not includable in an earlier period for which the taxpayer is required to file a return.

(ii) If a taxpayer who has been filing monthly or semimonthly returns receives notice to file a quarterly return, the last month or semimonthly period for which a return shall be filed is the last month or semimonthly period of the calendar quarter in which the notice is received.

(iii) If a taxpayer who has been filing semimonthly returns receives notice to file a monthly return, the last semimonthly period for which a return shall be made is the last semimonthly period of the month in which the notice is received.

[T.D. ATF-308, 56 FR 303, Jan. 3, 1991, as amended by T.D. ATF-330, 57 FR 40325, Sept. 3, 1992; T.D. ATF-365, 60 FR 33671, June 28, 1995]

### § 53.152 Final returns.

(a) *In general.* Any person who is required to make a return on TTB Form 5300.26 pursuant to § 53.151 and who in any return period ceases operations in respect of which the person is required to make a return on the form, shall make the return for that return period as a final return. A return made as a final return shall be marked "Final Return" by the person filing the return. A taxpayer who has only temporarily ceased to incur liability for tax required to be reported on TTB Form 5300.26 because of temporary or seasonal suspension of business or for other reasons, shall not make a final return until such operations are permanently ceased.

(b) *Statement to accompany final return.* Each final return shall have attached a statement showing the address at which the records required by the regulations in this part will be kept, the name of the person keeping the records, and, if the business of the taxpayer has been sold or otherwise transferred to another person, the name and address of that person and the date on which the sale or transfer